



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

BY ELECTRONIC MAIL

Ruth A. Cade
Director, Refining Environmental & Assurance
Marathon Petroleum Company LP
539 South Main Street
Findlay, OH 45840

E-Mail: racade@marathonpetroleum.com

Re: COVID-19 Related Force Majeure Notification in First Revised Consent Decree in
United States, et al., v Marathon Ashland Petroleum LLC, Civil Action No. 4:01CV-
40119-PVG (E.D. Mich.)

Dear Ms. Cade:

We have received your letters dated March 27, April 9, and May 11, 2020, wherein, on behalf of St. Paul Park Refining Co. LLC, Marathon Petroleum Company LP (collectively, MPC) provided a force majeure notice due to the novel coronavirus disease - 2019 (COVID-19) outbreak pursuant to Paragraph 57 of the above-referenced Consent Decree (CD). The U.S. Environmental Protection Agency (EPA) has consulted with the Department of Justice (DOJ) and the State of Minnesota on your notices, and this letter will serve as an initial response on behalf of the United States, pursuant to Paragraph 59 of the CD, for the St. Paul Park Refinery (Refinery).

In your letters you assert that “social distancing” measures required by federal, state, and local orders and guidelines may prevent MPC from performing certain CD obligations at the Refinery. Further, in Attachment 1 to your April 9, 2020 letter, you detailed: (1) the CD requirements that may be or have been delayed, which you subsequently narrowed in emails dated April 24, 2020 (April 24th e-mail) and June 1, 2020 (June 1st e-mail); (2) the anticipated duration of the delay; (3) the actions you have taken and will take to prevent or minimize the delay; (4) the schedule for implementation of the measures that have been taken or will be taken to prevent or mitigate the delay or effect of the delay; (5) the reason for the delay or impediment due to the force majeure event; and (6) a statement as to whether, in your opinion, the delay in compliance has caused or may cause or contribute to an endangerment to public health, welfare, or the environment as they relate to the force majeure events at the Refinery. Further, in Attachment 1 to your May 11, 2020 letter, you further narrow the CD requirements that may be or have been delayed as a result of the force majeure event.

EPA has determined that the measures that MPC has committed to take are reasonable given the circumstances of the force majeure event. Please adhere to the actions, outlined in more detail

below, in conformance with the implementation schedule the Refinery has committed to undertake to prevent or minimize the delay and any effect of the delay.

The agency is cognizant of potential worker shortages due to the COVID-19 outbreak as well as the travel and social distancing restrictions implemented by both governments and corporations or recommended by the Centers for Disease Control and Prevention to slow and limit the spread of COVID-19. The EPA also understands that the consequences of the pandemic may affect facility operations and the availability of key staff and contractors to carry out certain required activities.

Based on the information provided in MPC's April 9, 2020 letter and its April 24th e-mail, EPA, pursuant to Paragraph 59 of the CD, grants your request for an extension until May 1, 2020, for the Leak Detection and Repair (LDAR) requirements under Paragraph 20 of the CD that are identified in Attachment 1 of your April 9, 2020 letter (i.e., Paragraphs 20.C, 20.F-20.J, 20.M, and 20.N) and for the Benzene Waste NESHAP requirements under Paragraph 18 of the CD that are identified in Attachment 1 of your April 9, 2020 letter (i.e., Paragraphs 18.D, 18.E, 18.K and 18.N) as they relate to the activities at the Refinery which are delayed due to reduced 3rd party contractor personnel. Further, based on the information provided in MPC's May 11, 2020 letter and June 1st e-mail, EPA is also granting your request for an extension until June 1, 2020 for the LDAR requirements under Paragraph 20 of the CD, as referenced above, and for CD paragraph 18.N, which contains "miscellaneous" Benzene Waste NESHAP requirements.

The specific actions that MPC has taken or will take to prevent or mitigate the delay or the effect of the delay caused by the force majeure event, as discussed in the letters dated April 9 and May 11, 2020, and the April 24th e-mail and June 1st e-mail, include:

- Replacing quarterly Method 21 monitoring requirements with optical gas imaging (OGI), that is forward-looking infrared (FLIR) monitoring, including monitoring for "no detectable emissions" measurements on closed vent systems piping to a control device, including the hard piping to the carbon canisters, covers on the API & DGF, portable waste management units (e.g., vacuum trucks), and other associated ancillary components.
- Having MPC operations personnel perform olfactory, visual, and audible leak checks during routine rounds of process units which are subject to the Benzene Waste NESHAP requirements.
- Rescheduling its LDAR audit that was to occur in March to occur by August 31, 2020.
- Initiating leaks repairs for leaks identified using the aforementioned actions under the normal repair schedule to the extent feasible, with follow up monitoring performed using OGI FLIR monitoring.
- Continuing to meet BWON carbon canister breakthrough monitoring CD requirements.
- Continuing to meet End of Line data point sampling CD requirements.

Should the Refinery need extensions beyond June 1, 2020, please send EPA, DOJ, and the State of Minnesota an updated force majeure notice for consideration.

With respect to MPC's March 27, 2020 letter, to the extent the letter refers to potential events beyond those detailed in the attachments to the April 9 and May 11, 2020 letters, MPC did not

identify a current (as opposed to anticipated) delay or impediment to performance in complying, or provide the information required under Paragraph 57, thus the CD requires no additional response from EPA to the March 27, 2020 letter at this time.

We understand that Marathon may submit additional force majeure notices as the effect of the ongoing COVID-19 outbreak on its compliance with the CD becomes clearer. Future notifications should fully comply with Paragraph 57 of the CD and should: “describe the anticipated length of time the delay may persist, the cause or causes of the delay, and the measures taken or to be taken by MAP to prevent or minimize the delay and the schedule by which those measures shall be implemented.”

EPA believes that maintaining open and continuous dialogue will best protect human health and the environment, minimize potential misunderstandings, and facilitate timely and appropriate decision-making regarding potential CD noncompliance resulting from the COVID-19 outbreak. Please continue to update EPA, DOJ, and the State of Minnesota, as MPC’s knowledge of the anticipated effects on compliance with the CD becomes more certain. Should you have any questions regarding the above or any aspect of this matter, please do not hesitate to contact Marie St. Peter, EPA Region 5 Environmental Engineer, at stpeter.marie@epa.gov or William Wagner, EPA Region 5 Associate Regional Counsel, at wagner.william@epa.gov.

Sincerely,

**SARA
BRENEMAN**
Digitally signed by SARA
BRENEMAN
Date: 2020.06.15
11:38:30 -05'00'

Sara Breneman, Chief
Air Enforcement and Compliance Assurance Branch

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